IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

WP(C).No. 31086 of 2007(A)

PETITIONER:

MERSAMMA LOUIS, W/O C.T.ZACHARIA,
AGED 53 YEARS, HEADMISTRESS (UNDER SUSPENSION)
S.N.V.T.T. INSTITUTE, KAKKAZHOM,(RESIDING
AT MERYLAND KAKKAZHOM, ALAPPUZHA DISTRICT).

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
SRI.T.V.VIJAYARAJAN
SRI.M.SAJJAD

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,
ALAPPUZHA DISTRICT.

4. THE MANAGER,
S.N.V.T.T. INSTITUTE, KAKKAZHOM,
ALAPPUZHA DISTRICT.

5. SRI. P.K.RAJEEV,
RESIDING AT 'REVATHY', NEERUKKUNNAM,
P.O.VANDANAM, ALAPPUZHA DISTRICT.

R1 TO 3 BY GOVT. PLEADER SHRI. M.R.SREELATHA
BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE ORDER NO: 47/07-08 OF THE MANAGER DT. 24.9.2007

EXT.P2: -DO- OF THE MEMO OF CHARGES DT. 10.9.2007

EXT.P3: -DO- OF THE DEFENCE STATEMENT FILED BY THE PETITIONER BEFORE THE MANAGER DT. 15.9.2007

EXT.P4: -DO- OF THE APPEAL PETITION FILED BEFORE THE DEPUTY DIRECTOR OF EDN. DT. 27.9.2007

EXT.P5: -DO- OF THE ORDER NO: b2/19295/07/L. DIS. OF THE DEPUTY DIRECTOR OF EDN. DT. 8.10.2007

EXT.P6: -DO- OF THE REQUEST OF THE PETITIONER DT. 11.10.2007

EXT.P7: -DO- OF THE REPRESENTATION FILED BY THE STAFF COUNCIL DT. 14.9. 2007

EXT.P8 -DO- OF THE AFFIDAVIT FILED BEFORE THE HON'BLE SUB COURT, ALAPPUZHA IN O.S. NO: 35/1987 DT. 3.10.2006

RESPONDENTS' EXTS:

EXT. R4A: -DO- OF THE REVISION FILED BY THE 4TH RESPONDENT BEFORE THE GOVERNMENT

EXT.R4B: -DO- OF LETTERS WRITTEN BY TEACHERS SEEKING VOLUNTARY RETIREMENT DT. 12.1.2006 AND 29.3.2007

EXT.R4C: -DO- OF LETTER NO: B5/901/07-08 DT. 31.7.07 WRITTEN BY THE AMBALAPPUZHA NORTH GRAMA PANCHAYATH TO THE MANAGER, S.N.V.T.T.I., KAKKAZHOM

EXT.R4D: -DO- OF THE RESOLUTION PASSED BY THE MABLAPPUZHA NORTH GRAMA PANCHAYATH ON 6.6.07

jj /TRUE COPY/

P.A. TO JUDGE

S. SIRI JAGAN, J.

WP(C).No. 31086 OF 2007 A

Dated this the 5th November, 2007.

JUDGMENT

The petitioner was promoted as Headmistress of the S.N.V.T.T. Institute, Kakkazhom, Alappuzha district with effect from 1.4.2007. While working as such, the fourth respondent-Manager of the School placed the petitioner under suspension with effect from 24.9.2007, until further orders as per Ext.P1. Against that order the petitioner approached the third respondent-Deputy Director of Education in appeal. The Deputy Director of Education allowed the appeal and directed reinstatement of the petitioner. But the Manager refused to reinstate the petitioner as directed by the Deputy Director of Education. It is under the above circumstances the petitioner has filed this writ petition seeking the following reliefs:-

> a) call for the records relating to Ext.P1 and quash the original of the same by the issue of a writ of certiorari or other appropriate writ or order;
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> b) issue a writ of mandamus or other appropriate writ order or direction commanding the 4th respondent Manager to implement Ext.P5 order of the Deputy Director of Education reinstating the petitioner in service with all attendant benefits forthwith.
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> c) issue a writ of mandamus or other appropriate writ order or direction commanding the 4th respondent Manager to pay the salary of the petitioner for the period she is kept out of service in the School and treat the period under suspension as duty for all purposes.
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> d) pass such other order or direction which this Hon'ble court may deem fit and proper to grant in the circumstances of the case."

2. The fourth respondent-Manager has filed a detailed counter affidavit. She would submit that in view of the very serious misconducts alleged against the petitioner, it would not be in the interest of the school to reinstate the petitioner. The fourth respondent also submits that against Ext.P5 order she has filed a revision before the Government which is pending. She would submit that during the pendency of the revision, petitioner should not be directed to be reinstated. Therefore the fourth respondent argues for dismissal of the writ petition.

3. I have heard learned counsel for the writ petitioner, senior counsel Shri. N.N.Sugunapalan for the fourth respondent as also the learned Govt. Pleader.

4. Admittedly there is no stay obtained against Ext.P5 order. As long as Ext.P5 order continues to be operative, I do not think that the fourth respondent can refuse to comply with the direction in Ext.P5. In the above circumstances, I am satisfied that the petitioner is entitled to the reliefs prayed for. Accordingly the fourth respondent is directed to comply with Ext.P5 order of the Deputy Director

forthwith. Writ petition is disposed of accordingly.

S. SIRI JAGAN
Judge

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